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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/064,270
Filing Date: June 27, 2002
Appellant(s): SOLIMAN, MAHMOUD

Mahmoud Soliman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/02/2006 appealing from the Office action mailed 11/29/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

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(7) Claims Appendix

A substantially correct copy of appealed claims 1-20 appears on page 17-24 of the Appendix to the appellant's brief. The minor errors are as follows:

Re claims 1-20, the status identifier for these claims should be "Original".

(8) Evidence Relied Upon

6,076,079	Boston et al.	6-2000
5,964,823	Terriss et al.	11-1999
4,988,025	Lipton et al.	1-1991

Ilium Software, "Tipster", website available at <http://www.iliumsoft.com/tipster.htm>

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-7, 10, and 17-18 are rejected under 35 U.S.C. 103(a) as being obvious over Boston et al. (U.S. 6,076,079) in view of Terriss et al. (U.S. 5,964,823) in further view of Ilium Software ("TipsterTM").

Claim 16 is rejected under 35 U.S.C. 103(a) as being obvious over Boston et al. (U.S. 6,076,079) in view of Terriss et al. (U.S. 5,964,823).

Claim 11 is rejected under 35 U.S.C. 103(a) as being obvious over Boston et al. (U.S. 6,076,079) in view of Terriss et al. (U.S. 5,964,823) in further view of Ilium Software ("TipsterTM"), as applied to claim 1 above, and further in view of Lipton et al. (U.S. 4,988,025).

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10, and 17-18 are rejected under 35 U.S.C. 103(a) as being obvious over Boston et al. (U.S. 6,076,079) in view of Terriss et al. (U.S. 5,964,823) in further view of Ilium Software ("TipsterTM").

Re claim 1, Boston et al. disclose in Figures 1-2 a tips calculator (e.g. abstract), comprising:

a base member (e.g. 40 as housing for the tip calculator) having a face side (e.g. 12), wherein the face side (e.g. 12) has at least one display screen having a main display area (e.g. 14 and 20 for displaying bill amount, 24 for displaying tip amount, 22 for displaying tip percentage, and 26 for displaying total amount after tip); a plurality of groupings of buttons (e.g. 8 as a group of buttons and {27, 29, 30, and 32} as another group of buttons), wherein:

a first grouping of buttons (e.g. 8) includes buttons designating whole numbers from 0 to 9 (e.g. buttons with labels from 0 to 9) whereby the first grouping of buttons is used to at least enter a bill amount, wherein the bill amount is displayed on the main display area (e.g. col. 2 lines 4-14); and

a second grouping of buttons (e.g. 27, 29, 30, and 32) includes buttons designating tip amounts as percentages of the bill amount (e.g. 27 for 15%, 29 for 20%, 30 for decreasing, and 32 for increasing), whereby buttons designating tip amounts are used to enter a choice of a tip amount as a percentage of the bill amount (e.g. col. 2 lines 23-30) with subsequent display of the tip amount on the main display area (e.g. 22 as percentage and 24 as tip amount), and whereby the total amount is used to obtain a total amount, which is a sum of the bill amount and the tip amount, wherein the total amount is displayed on the main display area (e.g. col. 2 lines 35-41);

means for performing functions and calculations designated by buttons in the plurality of groupings of buttons (e.g. col. 4 lines 4-11 and col. 5 lines 6-17), and

means for display on the display screen of values, functions, and results of calculations designated by buttons in the plurality of groupings of buttons (e.g. {14, 20}, 22, 24, and 26 for respectively displaying the bill amount, percentage amount, tip amount, and total amount).

Boston et al. fail to disclose in the invention the following items: first, the buttons designating at least mathematical functions of a decimal point, addition, subtraction, multiplication, division, and sum total; second, a button for a total amount; and third, another grouping of buttons includes buttons designating numbers of members in a group as whole sequential numbers, whereby buttons designating numbers of members in a group are used to select a number of members in a group and to obtain a display on the main display area of an individual share, wherein the individual share is a product of a division of the total amount by the number of members in a group.

However, Terriss et al. disclose in Figure 1 the first and second missing limitation/feature as a commercial calculator with standard buttons (e.g. 12) designating at least mathematical functions of a decimal point, addition, subtraction, multiplication, division, and sum total (e.g. ".", +, -, x, /, = buttons in 12 respectively) and the total button (e.g. = button) for given the final value of a function.

In addition, Ilium Software discloses in the right Figure page 2 the third missing limitation/feature of another grouping of buttons (e.g. up/down arrow in the third box) includes buttons designating numbers of members in a group as whole sequential

numbers (e.g. the displayed number of people is incremented as a whole sequential numbers), whereby buttons designating numbers of members in a group are used to select a number of members in a group (e.g. divided by the number of people) and to obtain a display on the main display area of an individual share (e.g. left Figure in page 2), wherein the individual share is a product of a division of the total amount by the number of members in a group.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add the missing features like the mathematical functions buttons and total buttons as seen in Terriss et al.'s Figure 1 and another group of buttons designating numbers of members in a group as whole sequential numbers for obtaining a display of an individual share as illustrated in Ilium Software's Figures page 2 into Boston et al.'s invention because they would enable Boston et al.'s calculator to perform basis mathematical functions and to easily determine the individual share in just a few steps (e.g. mid-page of page 2).

Re claim 2, Boston et al. further disclose in Figures 1-2 the first grouping of buttons additionally has an on button for turning on of the tips calculator (e.g. button 2).

Re claim 3, Boston et al. further disclose in Figures 1-2 the first grouping of buttons additionally has an off button for turning off of the tips calculator (e.g. button 4).

Re claim 4, Boston et al. further disclose in Figures 1-2 the first grouping of buttons additionally has a clear button for clearing of the main display area (e.g. button 6).

Re claim 5, Boston et al. fail to disclose in the tip calculator the second grouping of buttons has buttons designating tip amounts as percentages of the bill amount in one percent increments and in a range from 10 percent to at least 25 percent.

However, Boston et al. suggest other common percentage amounts would be used (e.g. col. 4 lines 55-61).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add other buttons designating tip amounts ranging with increment by 1 from 10 to at least 25 as suggested commonly amount as seen in column 4 lines 55-61 because they would enable the user(s) to easily and conveniently entering the tip percentage amount.

Re claim 6, Boston et al. fail to disclose the display screen additionally has a share display area.

However, Ilium Software discloses in Figures in page 2 the display screen additionally has a share display area (e.g. left Figure).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add an additional share display area as seen in Ilium Software's left Figure into Boston et al.'s calculator because it would enable the user(s) to easily view total share individual amount.

Re claim 7, Boston et al. fail to disclose the third grouping of buttons additionally includes a share button for a display in the share display area of the individual share during performance of consecutive calculations on the tips calculator.

However, Ilium Software discloses in Figures in page 2 a share button (e.g. up/down button next to number 2) for a display in the share display area of the individual share during performance of consecutive calculations on the tips calculator (e.g. left Figure).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add a share button and a share display area as seen in Ilium Software's left Figure into Boston et al.'s calculator because it would enable to compute and display the total amount of individual share.

Re claim 10, Boston et al. fail to disclose the third grouping of buttons includes buttons designating numbers of members in the group as whole sequential numbers from 2 up to at least 12.

However, Ilium Software discloses in Figures in page 2 a sequential up or down buttons for designating numbers of members in the group as whole sequential numbers from 2 up to at least 12 (e.g. right Figure).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add the third grouping of buttons includes buttons designating numbers of members in the group as whole sequential numbers from 2 up to

at least 12 as seen in Ilium Software's invention into Boston et al.'s calculator they would enable the user(s) to easily and conveniently entering the number of members in the group for calculating individual share.

Re claim 17, Boston et al. in view of Terriss et al. fail to disclose in the invention the step of entering a number of members in a group by use of a third grouping of buttons of the tips calculator, wherein the third grouping of buttons includes buttons designating numbers of members in a group as whole sequential numbers, to display on the main display area of the tips calculator an individual share, wherein the individual share is a product of a division of the total amount by the number of members in the group.

However, Ilium Software discloses in the right Figure page 2 the third missing feature a step of entering (e.g. divided by the number of people) a number of members in a group by use of a third grouping of buttons of the tips calculator, the third grouping of buttons (e.g. up/down arrow in the third box) includes buttons designating numbers of members in a group as whole sequential numbers (e.g. the displayed number of people is incremented as a whole sequential numbers), to display on the main display area of an individual share (e.g. left Figure in page 2), wherein the individual share is a product of a division of the total amount by the number of members in a group.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add another group of buttons designating numbers of members in a group as whole sequential numbers for obtaining a display of an individual share as illustrated in Ilium Software's Figures page 2 into Boston et al. in view of

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Terriss et al.'s invention because they would enable Boston et al. in view of Terriss et al.'s calculator to easily determine the individual share in just a few steps (e.g. mid-page of page 2).

Re claim 18, it has method features claim of claim 7. Thus, claim 18 is also rejected under the same rationale as cited in the rejection of claim 7.

Claim 16 is rejected under 35 U.S.C. 103(a) as being obvious over Boston et al. (U.S. 6,076,079) in view of Terriss et al. (U.S. 5,964,823).

Re claim 16, Boston et al. disclose in Figures 1-2 a method of use of a tips calculator (e.g. abstract) comprising:

- pressing of an on button to turn on the tips calculator (e.g. button 2),
- entering of a bill amount to be displayed on a main display area (e.g. 14) of the tips calculator using a first grouping of buttons of the tips calculator (e.g. 8 including buttons with label from 0 to 9), wherein the first grouping of buttons includes buttons designating whole numbers from 0 to 9 (e.g. 8);
- selecting and entering desired percentage of a tip amount (e.g. 27, 29, 32, and 30) to display the tip amount on the main display area of the tips calculator (e.g. 22) using a second grouping of buttons of the tips calculator (e.g. buttons in area with 8 as the second grouping of buttons), and the tip amount on the main display area of the tips calculator (e.g. 24), wherein the button for the total amount is in the second grouping of buttons of the tips calculator (e.g. 26).

Boston et al. fail to disclose in the invention the following steps: first, the buttons designating at least mathematical functions of a decimal point, addition, subtraction, multiplication, division, and sum total; second, pressing a button for a total amount to display a sum of the bill amount; and third the second grouping of buttons includes buttons designating tip amounts as percentages of the bill amount in one percent increments and in the range from 10 percent to at least 25 percent.

However, Terriss et al. disclose in Figure 1 the first and second missing feature as a commercial calculator with standard buttons (e.g. 12) designating at least mathematical functions of a decimal point, addition, subtraction, multiplication, division, and sum total (e.g. ".", +, -, x, /, = buttons in 12 respectively) and the total button (e.g. = button) for given the final value of a function.

In addition, Boston et al. suggest other common percentage amounts would be used additionally in place of the 15% and 20% buttons (e.g. col. 4 lines 55-61).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add the missing features like the mathematical functions buttons and total buttons as seen in Terriss et al.'s Figure 1 and the suggestion of having other common percentage amounts buttons as seen in Boston et al.'s invention because they would enable Boston et al.'s calculator to perform basis mathematical functions and enable the user(s) to easily and conveniently entering the tip percentage amount.

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Claim 11 is rejected under 35 U.S.C. 103(a) as being obvious over Boston et al. (U.S. 6,076,079) in view of Terriss et al. (U.S. 5,964,823) in further view of Ilium Software ("TipsterTM") as applied to claim 1 above, and further in view of Lipton et al. (U.S. 4,988,025).

Re claim 11, Boston et al. in view of Terriss et al. in further view of Ilium Software fail to disclose the face side of the base member has an advertisement area for display of an advertisement information.

However, Lipton et al. disclose a calculator either in Figure 1 or 4 having a face side of the base member has an advertisement area for display of an advertisement information (e.g. 15).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add a face side of the base member has an advertisement area for display of an advertisement information as seen in Lipton et al.' calculator into Boston et al. in view of Terriss et al. in further view of Ilium Software's invention because it would enable to forcefully, attractively, and affectively advertise a product to the user(s) of the calculator (e.g. col. 1 lines 51-68).

(10) Response to Argument

A. Claim 1 is not obvious in light of the cited references by Boston et al., Terriss et al., and Ilium Software.

The applicant disagrees with the examiner's rejection in page 12 first paragraph since Boston et al. teach away from combining with Terriss et al. because Boston et al. criticizes, discredits, and discourages the incorporation of a calculator as states in

column 1 lines 34-40 of the cited reference by Boston et al. "Other methods and devices are known...single use experience". Thus, it is improper to combine these references.

The examiner respectfully disagrees with the applicant's interpretation that the primary reference by Boston et al. teach away from combining with Terriss et al. The missing functions buttons, as decimal point, addition, subtraction, multiplication, division, and sum total, found in the secondary reference by Terriss et al. are very common and standard buttons which existed on most of calculators for performing certain mathematical basis operations. Thus, there is no doubt for a calculator to have these functions buttons as decimal point, addition, subtraction, multiplication, division, and sum total.

In addition, Boston et al. do not explicitly state in column 1 lines 34-40 that "his calculator" should not have these common buttons for performing certain basis operations, as addition, subtraction, division, and multiplication, other than calculating tips. Rather, Boston et al. replace the common calculator with "his tip calculator" by replacing common function buttons with specific tip function buttons and give up common functions buttons.

However, the secondary reference by Terriss et al. clearly and implicitly disclose the common calculator with common functions buttons for performing certain functions as decimal point, addition, subtraction, multiplication, division, and sum total.

Therefore, it would be proper and obvious to a person having ordinary skill in the art at the time the invention is made to combine the common functions buttons of a common calculator as seen in Terriss et al.'s calculator into the tip calculator as seen in

Boston et al.'s calculator because the combination would allow to perform the common basis functions as addition, subtraction, division, and multiplication in addition with the tip functions.

In addition, the applicant argues in last paragraph of page 12 to page 13 that the secondary reference by Terriss et al. does not disclose the missing total amount button in the primary reference which is specifically used to obtain the sum of the bill amount and the tip amount. The total amount button in Ilium Software does not teach or suggest the sum of the bill amount plus the tip amount as needed for the total amount button.

The examiner respectfully submits that the missing total amount button, which is the sum of the bill amount and the tip amount, is either clearly, implicitly, or inherently taught or disclosed in all references.

In the primary reference by Boston et al., the total display area 26 in Figure 2 displays the total amount function, which is the sum of the bill amount 20 and the tip amount 24. Thus, any button to activate total display area to display the total amount can be considered as the total amount button.

In the secondary reference by Terriss et al., the equal "=" button can be used to generate or calculate a total amount which is the sum of the bill amount and the tip amount. For example, to compute the total amount of 100 with 5% tip, the calculator of Terriss et al. can be used to generate or compute the final total by pressing $100+100\%5$ "=" or $100*1.05$ ". Thus, the equal "=" button is the button to press to generate or compute the total amount which is the sum of the bill amount and the tip amount.

Similarly in the secondary reference by TipsterTM Software, the total display area (e.g. 32.43 (Total) on the left Figure or 120.00 (Total) on the right Figure) displays the total amount function, which is the sum of the bill amount 28.20 and the tip amount 4.23. Thus, any virtual button to activate total display area to display the total amount can be considered as the total amount button.

Generally, the total amount button cited in the claim 1 is either clearly, implicitly, or inherently found as a physical or virtual button in all three references for calculating and displaying the total amount of bill which is sum of the bill amount and the tip amount.

B. Claim 16 is not obvious in light of the references by Boston et al., Terriss et al., and Ilium Software.

Similarly, the applicant argues that the rejection is improper because the primary reference by Boston et al. teach away from a combination with the teachings of Terriss et al. As previously mentioned in the argument A above, Boston et al. teach away from incorporating a common calculator, as disclosed in Terriss et al., because it would suffer "from being too complicated for most dining patrons."

Similar to the response to the above argument, the examiner respectfully disagrees with the applicant's interpretation that the primary reference by Boston et al. teach away from combining with Terriss et al. The missing functions buttons, as decimal point, addition, subtraction, multiplication, division, and sum total, found in the secondary reference by Terriss et al. are very common and standard buttons which existed on most

of calculators for performing certain mathematical basis operations. Thus, there is no doubt for a calculator to have these functions buttons as decimal point, addition, subtraction, multiplication, division, and sum total.

In addition, Boston et al. do not explicitly state in column 1 lines 34-40 that “his calculator” should not have these common buttons for performing certain basis operations, as addition, subtraction, division, and multiplication, other than calculating tips. Nor, Boston et al. explicitly state in column 1 lines 34-40 that the common buttons for performing certain basis operations is too clumsy or complicated for most dining patrons to perform. Rather, Boston et al. replace the common calculator with “his tip calculator” by replacing common function buttons with specific tip function buttons and give up common functions buttons.

However, the secondary reference by Terriss et al. clearly and implicitly disclose the common calculator with common functions buttons for performing certain functions as decimal point, addition, subtraction, multiplication, division, and sum total.

Therefore, it would be proper and obvious to a person having ordinary skill in the art at the time the invention is made to combine the common functions buttons of a common calculator as seen in Terriss et al.’s calculator into the tip calculator as seen in Boston et al.’s calculator because the combination would allow to perform the common basis functions as addition, subtraction, division, and multiplication in addition with the tip functions.

The applicant disagrees since Ilium Software does not disclose the step of entering a number of members in the group by use of a third grouping of buttons of the tips calculator, wherein the third grouping of buttons includes buttons designating numbers of members in a group as whole sequential numbers, to display on the main display area of the tips calculator an individual share, wherein the individual share is a product of a division of the total amount by the number of members in the group.

The examiner respectfully submits that the limitations/features “entering a number of members in the group by use of a third grouping of buttons of the tips calculator, wherein the third grouping of buttons includes buttons designating numbers of members in a group as whole sequential numbers, to display on the main display area of the tips calculator an individual share, wherein the individual share is a product of a division of the total amount by the number of members in the group” are not in claim 16 as argued by the applicant, but rather these limitations/features are existed in claim 17.

For these limitations/features in claim 17, Ilium Software is either clearly, explicitly, or inherently disclosed every limitation cited in the claim as clearly addressed in the Office action.

In the previous Office action, Boston et al. in view of Terriss et al. fail to disclose in the invention the step of entering a number of members in a group by use of a third grouping of buttons of the tips calculator, wherein the third grouping of buttons includes buttons designating numbers of members in a group as whole sequential numbers, to display on the main display area of the tips calculator an individual share, wherein the

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individual share is a product of a division of the total amount by the number of members in the group.

However, Ilium Software discloses in the right Figure page 2 the third missing feature a step of entering (e.g. divided by the number of people) a number of members in a group by use of a third grouping of buttons of the tips calculator, the third grouping of buttons (e.g. up/down arrow in the third box) includes buttons designating numbers of members in a group as whole sequential numbers (e.g. the displayed number of people is incremented as a whole sequential numbers), to display on the main display area of an individual share (e.g. left Figure in page 2), wherein the individual share is a product of a division of the total amount by the number of members in a group.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention is made to add another group of buttons designating numbers of members in a group as whole sequential numbers for obtaining a display of an individual share as illustrated in Ilium Software's Figures page 2 into Boston et al. in view of Terriss et al.'s invention because they would enable Boston et al. in view of Terriss et al.'s calculator to easily determine the individual share in just a few steps (e.g. mid-page of page 2).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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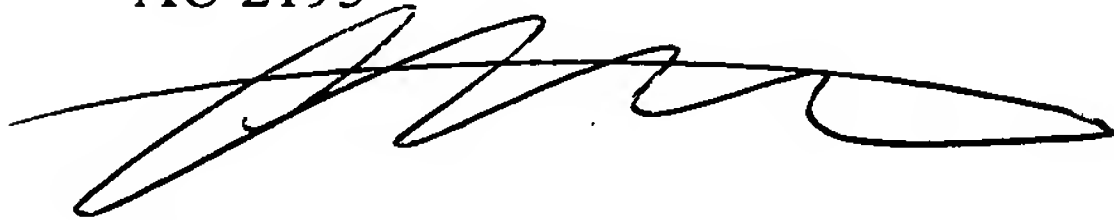
Further, no evidence in addition to those already of record is identified in the Evidence Appendix.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Chat C. Do

AU 2193



Conferees:

Meng-Ai An

Eddie Lee

Chat Do



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